



INTERIM REPORT: NONLAPSING BALANCES

EXECUTIVE APPROPRIATIONS COMMITTEE

SEPTEMBER 16, 2008

EXECUTIVE SUMMARY

This report examines legislative nonlapsing authority and reviews the types of and reasons for such authority. The report further examines how Utah legislative nonlapsing authority compares to other states and how nonlapsing balances have grown over the last five years. The report recommends that the Legislature:

1. change the language in the Budgetary Procedures Act to reflect “discrete component unit funds” rather than “college and university funds”.
2. determine if the State Board of Regents should receive statutory nonlapsing authority.
3. require the reporting of Higher Education’s nonlapsing balances to the Division of Finance.
4. consider technical changes to statutory nonlapsing authority.
5. review all statutory nonlapsing authority for potential policy changes.
6. consider moving all statutory nonlapsing authority to the Budgetary Procedures Act.
7. require the reporting of closing balances for dedicated credits.
8. consider formalizing the current policy that nonlapsing authority is primarily for the current fiscal year.

INTRODUCTION

The Legislature appropriates funds to specific line items to be expended in a given fiscal year. By law the Division of Finance is required to close out (or lapse) to the proper fund all remaining unexpended and unencumbered balances of appropriations made by the Legislature at the end of the fiscal year (UCA 63J-1-401). While this law applies to nearly all line items and funding sources, the Legislature has provided some exceptions known as “nonlapsing” authorizations. Line item appropriations receiving nonlapsing authority are able to carry forward unspent funds into the next fiscal year.

This report examines nonlapsing authorizations in more depth and answers the following questions:

1. Why does the Legislature grant nonlapsing authority?
2. How do agencies receive nonlapsing authority?
3. How does Utah’s nonlapsing authorization compare to other states?
4. How have nonlapsing line item balances changed over the last five years?
5. How can the Legislature improve the authorization process for nonlapsing balances?

WHY DOES THE LEGISLATURE GRANT NONLAPSING AUTHORITY?

One Time Projects

“Each agency that wishes to preserve any part or all of its appropriation balance as nonlapsing shall include a one-time projects list as part of the budget request that it submits to the governor and the Legislature... before the end of the fiscal year in which the agency may have an appropriation balance.” (UCA 63J-1-402 3)(a)) One-time projects include employee incentive awards, purchase of equipment, and one-time training. Statute further requires the one-time projects list be prioritized.

Each year the Governor's Office of Planning and Budget (GOPB) requires state agencies to complete a series of budget forms among which is a request form for the potential use of nonlapsing balances. In the past, some agencies' nonlapsing balance forms have failed to provide a detailed list of rank-ordered one-time projects. The form simply required the total nonlapsing request by expenditure category rather than a break-out of projects and associated costs. This year, however, the Analyst worked with GOPB to revise the nonlapsing balance form to now require all agencies to rank order and provide detail on one-time projects (see Appendix A). We anticipate that the revised form will further enable the Legislature and the Governor to make informed decisions regarding the grant of nonlapsing authority.

Multi-year Projects

There are occasions when spending for such activities as construction projects, pilot programs, and/or other programs have spread across more than one fiscal year. Sound financial management dictates that funding must be unencumbered for optimum expenditures efficiencies. Agencies should document and report such spending plans and activities to the Legislature and the Executive Branch so as to encourage best purchasing/spending practices for multi-year obligations.

Emergency Situations

In recent years, the state has responded to emergency situations requiring special funding considerations. For example, in the aftermath of Hurricane Katrina the Governor committed the state to provide shelter and other basic living needs for victims. Another example is when the Legislature appropriated funds in the 2005 General Session for mitigation, public health and safety, and infrastructure repair of Washington County and impacted communities from the Virgin and Santa Clara River Floods. Nonlapsing balances allow state agencies to respond to emergency situations; especially when emergency spending occurs in more than one fiscal year for restorative efforts.

HOW DO AGENCIES RECEIVE NONLAPSING AUTHORITY?

There are three ways in which funds are designated as nonlapsing:

1. General exemption by statute in the Budgetary Procedures Act;
2. Specific exemption by statute in specific sections of the Utah Code; and,
3. Intent language authorizing funds as nonlapsing

General Exemption

The director of the Division of Finance is instructed to "... close out to the proper fund or account all remaining unexpended and unencumbered balances of appropriations made by the Legislature ..." (UCA 63J-1-401 (2)) except specific funds that are enumerated in that section. These include enterprise funds, internal service funds, trust and agency funds, capital projects funds, college and university funds, debt service funds, and permanent fund. Additional exemptions include appropriations made to the Legislature; restricted special revenue funds; acquisition and development funds appropriated to the Division of Parks and Recreation; certain encumbrances for capital equipment purchases; and any other appropriations exempted by statute or in an appropriations act.

Specific Exemption

Many programs and funds not specifically exempted from the lapsing requirement in the Budgetary Procedures Act are nonetheless given authorization in their specific sections of the Utah State Code. The Legislature may grant permanent nonlapsing authority to departments, divisions, boards, commissions, or funds through legislation. A list of all such statutory nonlapsing authority may be found in Appendix B.

Intent Language

One of the exemptions listed in the Budgetary Procedures Act is any other appropriation excepted by an annual appropriations act. This has been interpreted to mean that intent language, as part of an item of appropriation, can exempt funding from lapsing at the end of the fiscal year. This nonlapsing authorization has become more refined over the years and now references specific funding, expenditures, and time frames. In the past, nonlapsing authorization was requested from, and often granted by, the legislature for both the current and the upcoming fiscal year. During the 2008 General Session, this was changed to only authorize nonlapsing for the current fiscal year.

Several years ago, the legislature approved a method of authorization where, before a legislative session, an agency could request nonlapsing authorization for a specific list of one-time projects, given certain parameters. This process allows the agency an amount of flexibility, while not relinquishing control from the legislature. The “One Time Projects” section on page 1 of this report gives further information on this process, which agencies are using more often to receive nonlapsing authority.

HOW DOES UTAH’S NONLAPSING AUTHORIZATION COMPARE TO OTHER STATES?

Survey of States

The Analyst surveyed the 50 states to better understand how each approves nonlapsing funds. Of the 50 states surveyed, 32 responded and those responses are listed in Appendix C.

Most states grant some form of nonlapsing authority to appropriated funds – only four states of the 32 surveyed did not grant nonlapsing authority. Eighteen of the 28 states (including Utah) that have nonlapsing authority grant that authority through both statute and legislative approval. Five states grant nonlapsing authority through statute only and five states grant nonlapsing authority through legislative approval only.

The 28 states that grant nonlapsing authority have different restrictions on how those funds should be spent. Eleven of the 28 states restrict nonlapsing authority to specific purposes and specific amounts. Nine states restrict nonlapsing authority to specific purposes, but do not specify an amount. Four states (including Utah) sometimes, but not always, restrict nonlapsing authority to specific purposes and specific amounts. Finally, four states do not restrict nonlapsing authority to either specific purposes or specific amounts. See Table 1.

State Restrictions on Nonlapsing Authority	Number of States
Restricted to Specific Purposes and Specific Amounts	11
Restricted to Specific Purposes only	9
Sometimes Restricted to Specific Purposes and Specific Amounts*	4
No Restriction on Nonlapsing Authority	4

*Utah included in this group

Table 1

Twenty-one of the 28 states that grant nonlapsing authority (including Utah) have some form of legislative oversight to follow up on nonlapsing balances. Seven states do not have any form of oversight.

Public Policy Research

Extensive published information exists on the methods that states and their political and operational subdivisions use to grant non-lapsing authority (also termed “carry over” or “carry forward” funds). Following examples illustrate the various policies and applications used in other states.

1. Georgia recently implemented a statewide policy concerning carry over or nonlapsing funds for its state government. Georgia’s Office of Planning and Budget and State Accounting Office issued the Carry-Over of Reserved Fund Balance Policy to, “[S]tandardize the process by which agencies identify funds carried over from a prior year, and, for State funds, distinguish the use of prior year funds from the use of current year appropriations.”

2. Last year, Maryland enacted legislation providing nonlapsing status for certain educational spending. The state's General Assembly conducted a special session in 2007 and passed SB 3, *Maryland Education Trust Fund – Video Lottery Terminals*, which among other things, “Establishes the ‘Education Trust Fund’ (State Government Article) as a new special nonlapsing fund. Money in the fund shall be used to:
 - a. Provide funding for public elementary and secondary education, through the continuation of the formulas established under the *Bridge to Academic Excellence in Public Schools Act* of 2002, including Geographic Cost of Education Index;
 - b. Provide funds to construct public school buildings and public school capital improvements; and
 - c. Provide funds for capital projects at community colleges and public senior higher education institutions.”
3. The Publication, State and Local Public Review, provided the following research by Aimee L. Franklin and James W. Douglas in *Reducing Wasteful End-of-Year Expenditures*. “[T]he nonlapsing nature of revolving funds may reduce the incentive to spend down balances at the end of the year. Because they are nonlapsing, revolving funds should therefore encourage agencies to become more efficient and save more so that they can focus on priorities. We found that, to a limited extent, revolving funds encourage agencies to find ways to maintain balances so that they can deal with unexpected events and focus on priorities. The incentive to save is severely limited, however, by the fear that the legislature will transfer large balances in revolving funds to the general revenue fund. Agency officials are cognizant that central budget offices and legislators and their staffs closely scrutinize the balances to find extra money to be divvied up in subcommittee budget hearings. Each year, subcommittees look at the general revenue certified funds and revolving fund balances as sources available for the next year's budget.”

HOW HAVE NONLAPSING BALANCES CHANGED OVER THE LAST FIVE YEARS?

Figure 1 illustrates how nonlapsing balances statewide have grown in the last five years. Nonlapsing balances in state agencies decreased as a whole from FY 2003 to FY 2006. In FY 2007 nonlapsing balances increased from \$309 million to \$534 million primarily due to nonlapsing balances in USTAR (\$58 million) and UDOT (\$110 million). Finally, in FY 2008 nonlapsing balances decreased to \$463 million.

Previous to FY 2008, most agencies failed to adequately anticipate the balances of unspent funds that would become nonlapsing. In practice, this means that agencies would over-budget for expenditures while underestimating the carry-forward balances. The difference between the blue “Appropriated” line and the pink “Actual” line in Figure 1 represents this trend. However, in FY 2008 agencies did a much better job at anticipating nonlapsing balances – the gap between budgeted (appropriated) and actual decreased from \$484 million in FY 2007 to \$222 million in FY 2008.

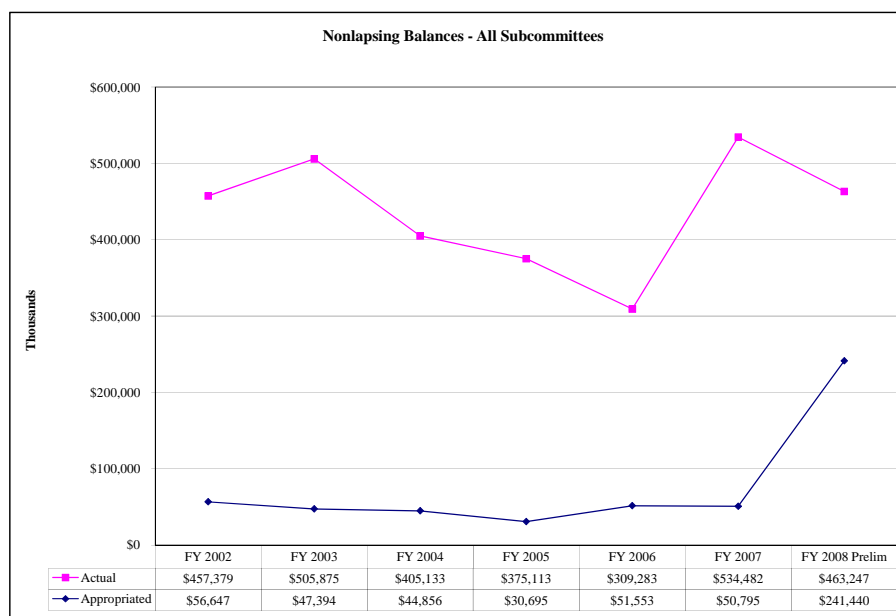


Figure 1

Appendix D shows the five year history and trend for the nonlapsing balances in each appropriations subcommittee. Appendix E shows the nonlapsing balance and total budget for each state agency (excluding higher education) for FY 2007 and FY 2008. All numbers and information on FY 2008 nonlapsing balances are preliminary and subject to change until audited in November by the State Auditor.

HOW CAN THE LEGISLATURE IMPROVE THE AUTHORIZATION PROCESS FOR NONLAPSING BALANCES?

Dedicated Credit Nonlapsing Balances

Currently, dedicated credits comprise a significant portion of many agencies' budgets. In their budget submissions to the Governor's Office of Planning and Budget and the Legislative Fiscal Analyst, agencies project the amount of dedicated credits they anticipate they will generate during the upcoming fiscal year. Because this is a projection, the actual collections usually are different than that amount. The Legislature has authorized agencies in 63J-2-202 to spend the amount appropriated plus up to an additional 25% of that amount if collections are greater than appropriated. (This rule does not apply to any agency whose dedicated credits and fixed collections revenues represent over 90% of their program budget. For agencies that meet this definition, they may expend 100% of those revenues.) Collections over the 25% level are to be deposited into the General Fund or other appropriate fund as free or restricted revenue. The Analyst recommends that budget forms be established that require the reporting of the closing balances in these funds to report transfers to the General Fund.

Prior Year Authority

The Legislature's current policy regarding nonlapsing balances is to grant nonlapsing authority primarily for the current fiscal year. Furthermore, the current policy requires agencies to identify specific uses of the nonlapsing authority rather than general statements or broad authorization. Nonlapsing authority is occasionally granted for the budgeted fiscal year for special projects. The Legislature may want to formalize this policy in statute.

College and University Funds

The Budgetary Procedures code states that "college and university funds" are excluded from the requirement to lapse all funds; however, that category of funds no longer exists. Previous to 2008, college and university funds were used to account for higher education. House Bill 378, "State Accounting and Budgetary

Procedures Amendments”, passed during the 2008 General Session, changed the fund type from “college and university funds” to “discrete component unit funds” to better align with standard accounting practices. The reference in 63J-1-401 was not updated at that time. The Analyst recommends that the Budgetary Procedures Act be changed to reflect “discrete component funds” instead of “college and university funds”.

The Division of Finance has given the State Board of Regents nonlapsing authority in the past based on its close association with higher education. The Board of Regents was never a part of the college and university funds nor is it a part of the new discrete component unit funds. The Legislature should determine if the Board of Regents merits general nonlapsing authority. If so, the Legislature should make a specific exemption for the Board of Regents in statute; otherwise the Board of Regents should be required to submit annual requests for nonlapsing intent language like the rest of state government.

An additional issue relating to Higher Education deals with its reporting of its nonlapsing balances. Currently, Higher Education reports its nonlapsing balances to the governor and the Legislative Fiscal Analyst, but does not report those balances to the Division of Finance. All other state agencies report their nonlapsing balances to the Division of Finance. The Analyst recommends that the EAC require Higher Education institutions to report their nonlapsing balances to the Division of Finance. This will assist the Division in compiling its year-end reports.

Consistency in Statutory Nonlapsing Authorization

Currently general nonlapsing authority is provided in the Budgetary Procedures Act for certain funds and programs while other funds and programs receive nonlapsing authority in their specific sections of the Utah State Code. For greater consistency, the Legislature may want to consider one of the following three options:

- Move all references for nonlapsing authorization from the Budgetary Procedures Act to the specific areas in the Code
- Move all references for nonlapsing authorization from specific areas of the Code to the Budgetary Procedures Act
- Put all references for nonlapsing authorization in both the Budgetary Procedures Act and the specific areas in the Code

The Analyst recommends that all nonlapsing authorizations citations be moved to the Budgetary Procedures Act, and that any future authorizations also be placed in that same section. This will centralize all nonlapsing authorizations and facilitate both nonlapsing reporting from the Fiscal Analyst and any statutory changes for future legislation.

Other Changes

The Legislature may wish to consider technical changes and policy changes to the nonlapsing authorities granted in statute:

1. Technical Changes. In several cases, nonlapsing authority is granted where it is not necessary. For example, in section 77-10a-20, nonlapsing authority is granted to a line item within the Judicial Branch that expires in FY 1990. Such nonlapsing language is outdated and/or irrelevant and could be updated.

2. Policy Changes. All statutory nonlapsing authority should be reviewed for necessity. Such a review would go beyond simple technical changes and have broader budget and policy implications. For example in section 63C-8-102, the Medical Education Council is currently granted nonlapsing authority. Upon review, one program within the Council is accruing a substantial nonlapsing balance due to expenditures falling significantly below ongoing funding. In this case the Legislature may consider limiting nonlapsing authority to only those programs of the Council that are not accruing substantial balances.

RECOMMENDATIONS

Based on the information and analysis contained in this report, the Analyst recommends that the Legislature:

1. change the language in the Budgetary Procedures Act to reflect “discrete component unit funds” rather than “college and university funds”.
2. determine if the State Board of Regents should receive statutory nonlapsing authority.
3. require the reporting of Higher Education’s nonlapsing balances to the Division of Finance.
4. consider technical changes to statutory nonlapsing authority.
5. review all statutory nonlapsing authority for potential policy changes.
6. consider moving all statutory nonlapsing authority to the Budgetary Procedures Act.
7. require the reporting of closing balances for dedicated credits.
8. consider formalizing the current policy that nonlapsing authority is primarily for the current fiscal year.

Form 210 - FY 2010

FY 2009 Estimated Nonlapsing Funds

Expenditure Category	Amount
Capital Equipment or Improvements	
Computer Equipment/Software	475,000
Employee Training/Incentives	10,000
Equipment/Supplies	
Special Projects/Studies	225,000
Vehicles	
Other	
Grand Total	\$710,000

Contact:

Phone Number:

APPENDIX B: STATUTORILY EXEMPT NONLAPSING AUTHORITY INVENTORY

#	Statutory Reference	Agency, Board, Etc.	Program, Fund, Description, Etc.
1	78-3a-201	Board of Juvenile Court Judges	Funds donated or paid to the juvenile court by private sources for the purpose of community service programs.
2	78-3a-207	Board of Juvenile Court Judges	State rehabilitative employment program for delinquent minors
3	40-6-14.5	Board of Oil, Gas and Mining	Oil and Gas Conservation Account (within General Fund)
4	41-22-19.5	Board of Parks and Recreation	Off-highway Access and Education Restricted Account (within General Fund)
5	63-73-10	Board of the Utah Geological Survey (within Department of Natural Resources)	Nonlapsing, restrictive account in the General Fund for the Utah Geological Survey.
6	73-28-404	Board of Water Resources	Water Resources Conservation and Development Fund
7	53-10-407	Bureau of Forensic Services	DNA Specimen Restricted Account
8	24-1-19	Commission on Criminal and Juvenile Justice	Crime Reduction Assistance Program
9	63C-4-103	Constitutional Defense Council (Legislature may also appropriate money from the account to the Public Lands Policy Coordinating Office, the Public Lands Policy Coordinating Counsel, the Office of the Governor, a county or association of counties, or the Office of the Attorney General)	Constitutional Defense Restricted Account (within General Fund)
10	4-2-2	Department of Agriculture and Food	Grain grading program
11	4-14-3	Department of Agriculture and Food	Utah Pesticide Control Act
12	4-14-13	Department of Agriculture and Food	Utah Pesticide Control Act
13	4-35-6	Department of Agriculture and Food	Insect Infestation Emergency Control Act
14	4-2-8.5	Department of Agriculture and Food: Division of Water Quality	Salinity Offset Fund/Colorado River Salinity Offset Program
15	4-20-2	Department of Agriculture and Food: State Grazing Advisory Board/Regional Grazing Advisory Boards	Rangeland Improvement Fund
16	9-6-404	Department of Community and Culture: Division of Arts and Museums	Percent-for-Art Program
17	9-8-604	Department of Community and Culture: Division of State History	Centennial History Fund
18	64-13-21.2	Department of Corrections	Offender supervision dedicated credits (within General Fund)
19	64-13e-104	Department of Corrections	Housing of state probationary inmates or state parole inmates
20	19-1-403	Department of Environmental Quality	Clean Fuels and Vehicle Technology Fund
21	19-6-120	Department of Environmental Quality	Hazardous Waste Plan Review Program
22	26-8a-207	Department of Health	Emergency Medical Services Grant Program
23	26-8a-208	Department of Health	Fees and other funding available to purchase training equipment and to administer tests and conduct quality assurance reviews shall be nonlapsing.

24	26-46-102	Department of Health	Utah Health Care Workforce Financial Assistance Program
25	67-19-6	Department of Human Resource Management	The user training program
26	62A-1-111; 62A-4a-110	Department of Human Services	Donated funds
27	62A-13-109	Department of Human Services	Mental Health Therapist Grant and Scholarship Program
28	62A-15-503	Department of Human Services	Funds from penalties for DUI convictions may be deposited in a special nonlapsing account created by the county treasurer of the county
29	62A-5-102	Department of Human Services; Division of Services for People with Disabilities	Appropriations to the division
30	62A-15-103	Department of Human Services; Division of Substance Abuse and Mental Health	Donated funds
31	53-3-106	Department of Public Safety	Department of Public Safety Restricted Account (within Transportation Fund)
32	72-2-117.5	Department of Transportation	Local Transportation Corridor Preservation Fund (within Transportation Fund)
33	72-3-207	Department of Transportation	State Park Access Highways Improvement Program
34	72-6-112	Department of Transportation	Traffic Noise Abatement Program
35	31A-38-104	Department of Workforce Services	Federal Health Care Tax Credit Program
36	35A-3-114	Department of Workforce Services	Program for the education, training, and transitional counseling of displaced homemakers
37	63-46a-10	Division of Administrative Rules	All funds appropriated or collected for publishing the division's publications.
38	77-32-601	Division of Finance at the direction of the Indigent Defense Funds Board	Indigent Aggravated Murder Defense Trust Fund
39	77-32-701	Division of Finance at the direction of the Indigent Defense Funds Board	Indigent Felony Defense Trust Fund
40	65A-5-1	Division of Forestry, Fire and State Lands	Sovereign Lands Management Account (within General Fund)
41	65A-8-103	Division of Forestry, Fire and State Lands	Forestry and fire control funds
42	26-18-3	Division of Health Care Financing	General Fund (Funds collected as a result of a sanction imposed under Section 1919 of Title XIX of the federal Social Security Act shall be deposited in the General Fund as nonlapsing dedicated credits to be used by the division.)
43	58-56-9	Division of Occupational and Professional Licensing	Building inspector's education program
44	58-17b-505	Division of Occupational and Professional Licensing	Educational and Enforcement Fund
45	58-37-7.7	Division of Occupational and Professional Licensing	Costs necessary to establish and operate the controlled substance database shall be funded by appropriations from: (a) the Commerce Service Fund; and (b) the General Fund.
46	58-31b-103	Division of Occupational and Professional Licensing; Board of Nursing	Nurse Education and Enforcement Fund (within General Fund)
47	58-44a-103	Division of Occupational and Professional Licensing; Certified Nurse Midwife Board	Certified Nurse Midwife Education and Enforcement Fund (within General Fund)

48	58-76-103	Division of Occupational and Professional Licensing; Professional Geologist Licensing Board	Professional Geologist Education and Enforcement Fund (withing General Fund)
49	58-63-103	Division of Occupational and Professional Licensing; Security Services Licensing Board	Monies collected for the educating and training licensees, the general public and for enforcing the Security Personnel Licensing Act.
50	63-11-19.2	Division of Parks and Recreation	The first \$75,000 shall accrue to the Division of Parks and Recreation for the management of Antelope Island buffalo herds as nonlapsing dedicated credits
51	63-11a-503	Division of Parks and Recreation	Centennial Nonmotorized Paths and Trail Crossings Program
52	63-11a-504	Division of Parks and Recreation	Bonneville Shoreline Trail Program
53	73-10e-1	Division of Parks and Recreation	Water Development and Flood Mitigation Reserve Account (within General Fund)
54	61-2-9	Division of Real Estate	Funds paid by an applicant for the cost of the criminal background check
55	61-2-28	Division of Real Estate	Utah Housing Opportunity Restricted Account (within General Fund)
56	61-2c-202	Division of Real Estate	Funds paid by an applicant for the cost of the criminal background check
57	61-2c-401	Division of Real Estate	Licensee's deposit to cover the division's expenses in connection with the examination of the records in an investigation.
58	59-12-103	Division of Water Resources	Water Resources Conservation and Development Fund
59	73-23-2	Division of Water Resources & Disaster Relief Board	Appropriations from the Water Resources Conservation and Development Fund
60	23-21a-6	Division of Wildlife Resources	Pelican Management Act
61	53-3-905	Driver License Division	Motorcycle Rider Education Program
62	35A-4-505	Employment Security Administration Fund	Employment Security Administration Fund
63	63-38f-416	Governor's Office of Economic Development	Enterprise Zone Act
64	63-38f-1411	Governor's Office of Economic Development	Tourism Marketing Performance Account (within General Fund)
65	63-38f-1604	Governor's Office of Economic Development	Rural Development Program
66	63-38f-2003	Governor's Office of Economic Development	Business Development for Disadvantaged Rural Communities Restricted Account (within General Fund)
67	63-38f-2303	Governor's Office of Economic Development	Rural Broadband Service Fund (within General Fund)
68	63-11-19.6	Green River State Park	Revenue from user fees to play golf at the state park
69	31A-31-108-109	Insurance Department	Insurance Fraud Act
70	78-24-4	Judicial Council	Fee for the issuance and renewal of a license of a certified court interpreter.
71	77-10a-19	Judicial Council for compensation for special prosecutors	Line item from the General Fund

			When legislation is passed that creates a new program or agency, the legislative sponsor shall consider providing that the funding for the first fiscal year should be nonlapsing, with the option of continuing those nonlapsing monies for an additional year
72	36-24-101	Legislature	
73	46-1-23	Lieutenant Governor	General Fund as a dedicated credit for administration of "Notaries Public Reform Act."
74	63C-8-102	Medical Education Council in cooperation with the Division of Finance	Medical Education Program
75	41-1a-1221	Motor Vehicle Division	Electronic payment fee on all registrations and renewals of registration
76	41-22-36	Motor Vehicle Division	Fees to cover the costs of electronic payments.
77	73-18-25	Motor Vehicle Division	Fees to cover the costs of electronic payments.
78	41-3-601	Motor Vehicle Enforcement Division	The division shall use fees collected under Subsection (2)(a) as nonlapsing dedicated credits to be used toward the costs of the division.
79	41-3-604	Motor Vehicle Enforcement Division	Fee to cover the cost of electronic payments.
80	9-11-104	Navajo Revitalization Board	Navajo Revitalization Fund
81	63A-11-203	Office of Child Welfare Parental Defense	Child Welfare Parental Defense Fund
82	73-3-25	Office of the State Engineer	Revocation or suspension of well driller's license
83	54-8b-10	Public Service Commission of Utah	Surcharge on each residence and business access line of each customer to the local exchange of any telephone corporation.
84	63A-4-201	Risk Manager	Risk Management Fund
85	9-14-102 (repealed July 1, 2008)	Rural Development Board	Rural Development Fund
86	9-15-102 (repealed July 1, 2008)	Rural Electronic Commerce Communications System Board	Rural Electronic Commerce Communications System Fund
87	53C-3-202	School and Institutional Trust Lands Management Act	Retention of up to 3% of the monies collected from all bonus payments, rentals, and royalties from the lease of mineral lands.
88	53-2-107	Search and Rescue Advisory Board	Search and Rescue Financial Assistance Program
89	35A-4-506	Special Administrative Expense Fund	Special Administrative Expense Fund
90	53A-17a-105(7)	State Board of Education	Minimum School Program
91	53A-17a-148	State Board of Education	Appropriated money from the Uniform School Fund nonlapsing balances for new teacher bonus and performance based compensation plans.

			Appropriated money from the Uniform School Fund to fund the implementation of proposals to improve mathematics achievement test scores of students in grades four through six as provided in this section.
92	53A-17a-152	State Board of Education	
93	53A-21-401	State Board of Education	School Building Revolving Account (within Uniform School Fund)
94	53B-6-104	State Board of Regents	Teacher preparation programs that qualify and certify instructors to work with students who are visually impaired, hearing impaired, or both visually and hearing impaired.
95	53-7-314	State Fire Marshal Division	Liquefied Petroleum Gas Act
96	41-1a-1201	State Tax Commission	All funds available for purchase and distribution of license plates and decals
97	59-12-120	State Tax Commission	Ski Resort Capital Investment Incentive Restricted Account (within General Fund) – nonlapsing only until July 1, 1993
98	63-63a-10	State, local, or multijurisdictional law enforcement agencies and other appropriate agencies	Grants out of the Law Enforcement Operations Account (within General Fund)
99	72-2-117	Transportation Commission	Transportation Corridor Preservation Revolving Loan Fund (within Transportation Fund)
100	72-2-120	Transportation Commission	Tollway Restricted Special Revenue Fund
101	72-2-122	Transportation Commission	Aeronautics Construction Revolving Loan Fund (within Transportation Fund)
102	9-10-108	Uintah Basin Revitalization Board	Uintah Basin Revitalization Fund
103	69-2-5.5	University of Utah Poison Control Center	University of Utah Poison Control Center program
104	63C-6-104	Utah Seismic Safety Commission	Utah Seismic Safety Commission
105	53A-24-105	Utah State Office of Rehabilitation	An unnamed fund
106	31A-2-208	Utah's insurance commissioner; Insurance Department	Money collected from subscription fees charged for these publications shall be deposited as nonlapsing dedicated credits to be used solely for the production and mailing costs of the publications.
107	63-11-19.5	Wasatch Mountain, Palisades, and Jordan River State Parks	Revenue from user fees to play golf at the state parks

APPENDIX C: NONLAPSING FUNDS SURVEY OF THE 50 STATES

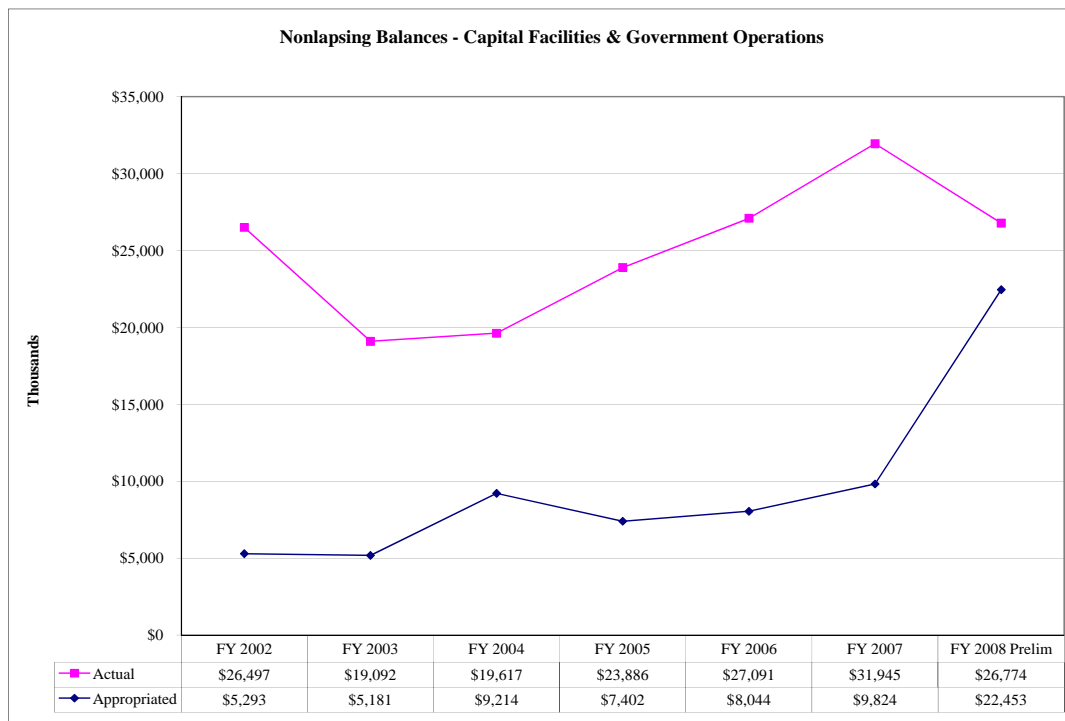
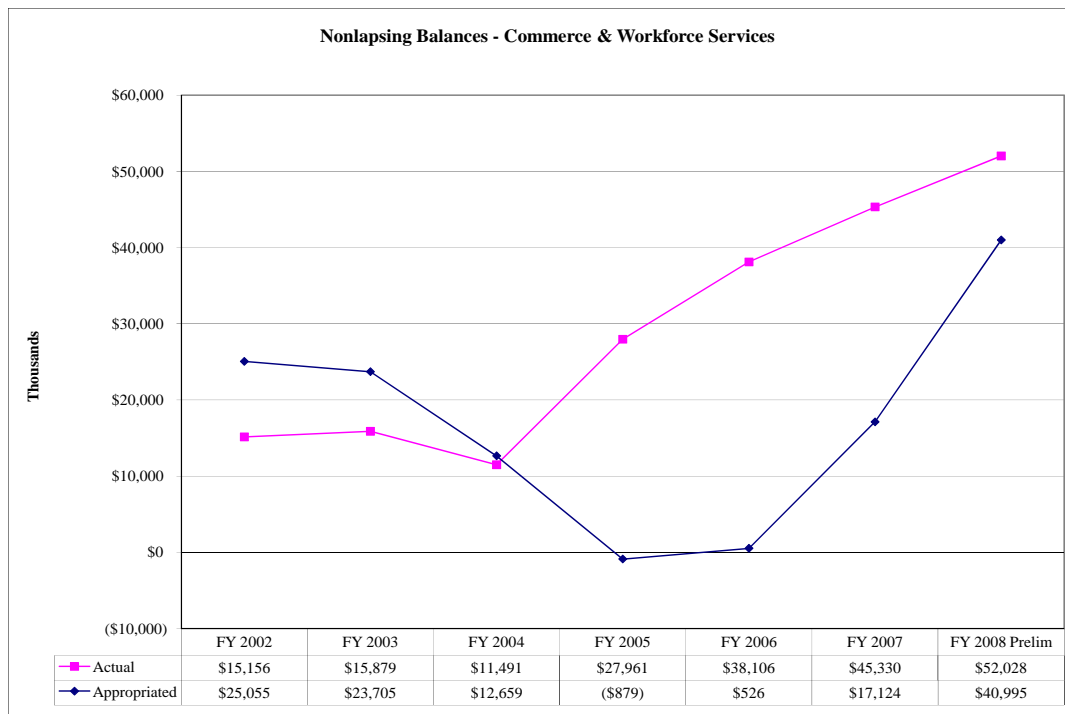
State	Survey Questions					Comments
	1. Does your state's legislative process include non-lapsing funds?	2. Is the authority for non-lapsing funds statutory, through legislative approval, or both?	3. Is non-lapsing authority granted for specific purposes?	4. Is non-lapsing authority granted for a specific amount?	5. Is there legislative oversight of non-lapsing balances?	
Alaska	Yes	Legislative	No	No	Yes	(1)
Arizona	Yes	Both	Yes	Yes	Yes	
Arkansas	Yes	Both	No	No	No	(2)
California	No	N/A	N/A	N/A	N/A	
Colorado	No	N/A	N/A	N/A	N/A	
Connecticut	Yes	Both	Yes	Yes	Yes	
Delaware	Yes	Legislative	Yes	No	Yes	
Idaho	Yes	Legislative	Yes	No	Yes	
Kansas	Yes	Both	Yes	Yes	Yes	
Maine	Yes	Statutory	Yes	No	No	(3)
Maryland	Yes	Statutory	Yes	No	Yes	
Michigan	Yes	Statutory	Yes	No	No	
Minnesota	Yes	Both	Sometimes	Sometimes	Yes	
Mississippi	Yes	Both	yes	No	Yes	
Missouri	No	N/A	N/A	N/A	N/A	(4)
Nebraska	Yes	Legislative	Sometimes	Sometimes	Yes	
Nevada	Yes	Both	Yes	Sometimes	Yes	
New Hampshire	Yes	Both	Yes	Yes	Yes	
New Jersey	Yes	Both	Yes	Yes	Yes	
North Dakota	Yes	Both	Yes	No	No	
Ohio	No	N/A	N/A	N/A	N/A	(5)
Oklahoma	Yes	Both	No	No	Yes	
Oregon	Yes	Both	Yes	No	No	
South Carolina	Yes	Statutory	Yes	Yes	No	(6)
South Dakota	Yes	Both	Yes	Yes	Yes	(7)
Tennessee	Yes	Both	Yes	Sometimes	Yes	
Texas	Yes	Both	Yes	Sometimes	Yes	
Utah	Yes	Both	Sometimes	Sometimes	Yes	
Vermont	Yes	Legislative	Yes	Yes	Yes	
Virginia	Yes	Both	No	No	Yes	
Washington	Yes	Statutory	Yes	No	No	
Wisconsin	Yes	Both	Sometimes	Sometimes	Yes	

States that Did Not Respond

Alabama, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kentucky, Louisiana, Montana, Massachusetts, New Mexico, New York, North Carolina, Pennsylvania, Rhode Island, West Virginia, Wyoming

Comments

- (1) Alaska also has multi-year appropriations, which specify that an appropriation is for several fiscal years. Multi-year appropriations typically state a more specific purpose within a program and the remaining balance depends on the timing of expenditures.
- (2) Arkansas makes a distinction between appropriation and funding--appropriation is the authority to spend; funding is actual dollars. Whereas "non-lapsing" authority is granted for specific purposes (although not for a specific amount) with legislative oversight for appropriations, specific purposes and amounts are not, nor is there any legislative oversight, with regard to actual General Revenue Funding.
- (3) Reports of carrying balances are provided at the end of each fiscal year, which are reviewed by staff for consistency with statutory authority.
- (4) Any appropriation authority that is left unspent at the end of the fiscal year becomes mute, unless specifically reappropriated. Only a select few capital project appropriations are reappropriated each year.
- (5) All appropriated funds lapse at the end of the fiscal year of appropriation, unless encumbered by the agency for specific purchases. Legislature routinely reappropriates encumbered amounts in appropriation acts. See Section 503.15 of HB 119/127th General Assembly for the reappropriation authority and schedule for the current biennium.
- (6) South Carolina's annual Appropriations Act sets the policy for agency appropriation lapses or carry-forwards. A general provision in the Act allows state agencies to carry-forward 10% of their original appropriations. Any unspent balances over 10% will lapse. These particular carry-forwards are contingent on the State not ending the year with a deficit (in which case they are reduced pro-rata). In addition, some agencies are allowed to carry-forward all of their remaining appropriation balances for specific line items and certain supplemental surplus fund appropriations can be carried forward indefinitely.
- (7) Special Appropriations are for specific purposes with a specific dollar amount. Continuous Appropriations are for general purposes (e.g. on-going operation of a regulatory board) and may spend any money that is collected.

APPENDIX D: NONLAPSING BALANCE TRENDS BY APPROPRIATIONS SUBCOMMITTEE**Figure 6****Figure 7**

Note to Figure 7 – Finance did not yet have nonlapsing balance Actuals for the Insurance Commission Comprehensive Health Insurance Pool or the Public Service Commission Universal Telecom Service Fund, so the estimated FY 2008 amounts were used

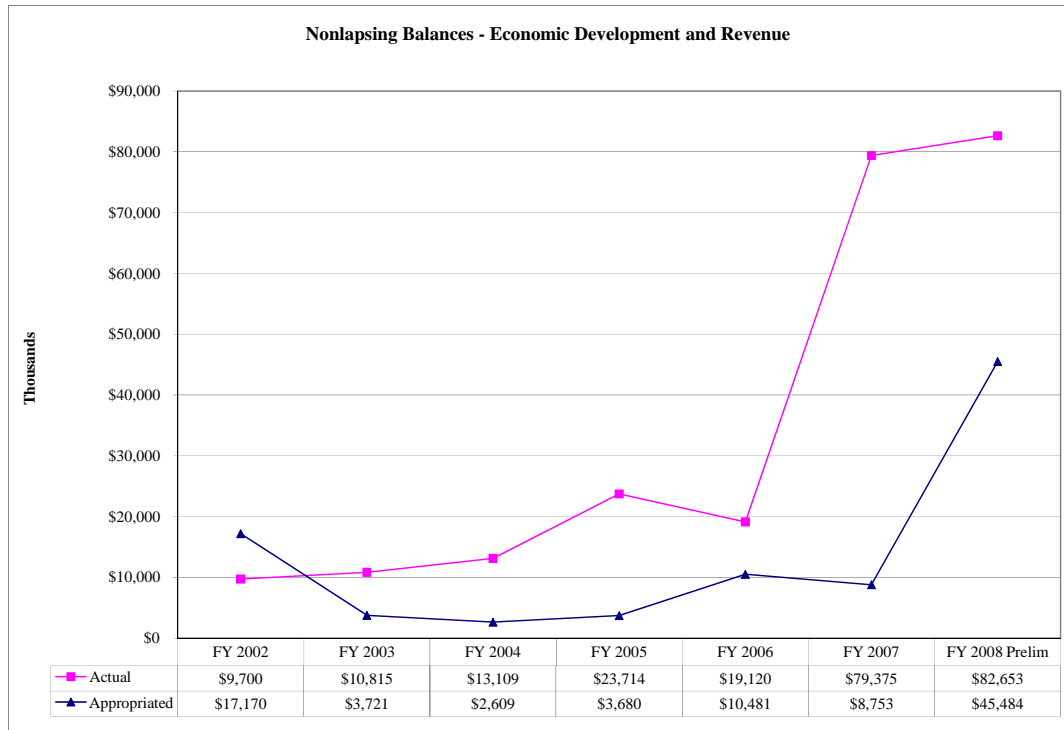


Figure 8

Note to Figure 8 – the large jump in nonlapsing balances from FY 2006 to FY 2007 is due to USTAR

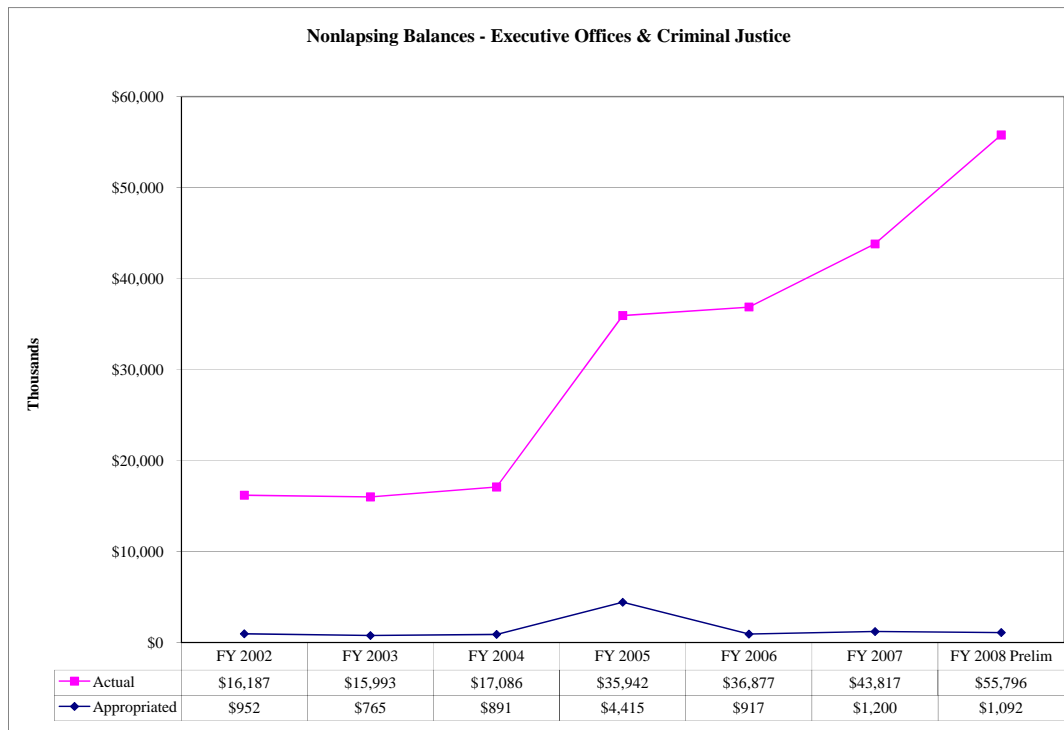


Figure 9

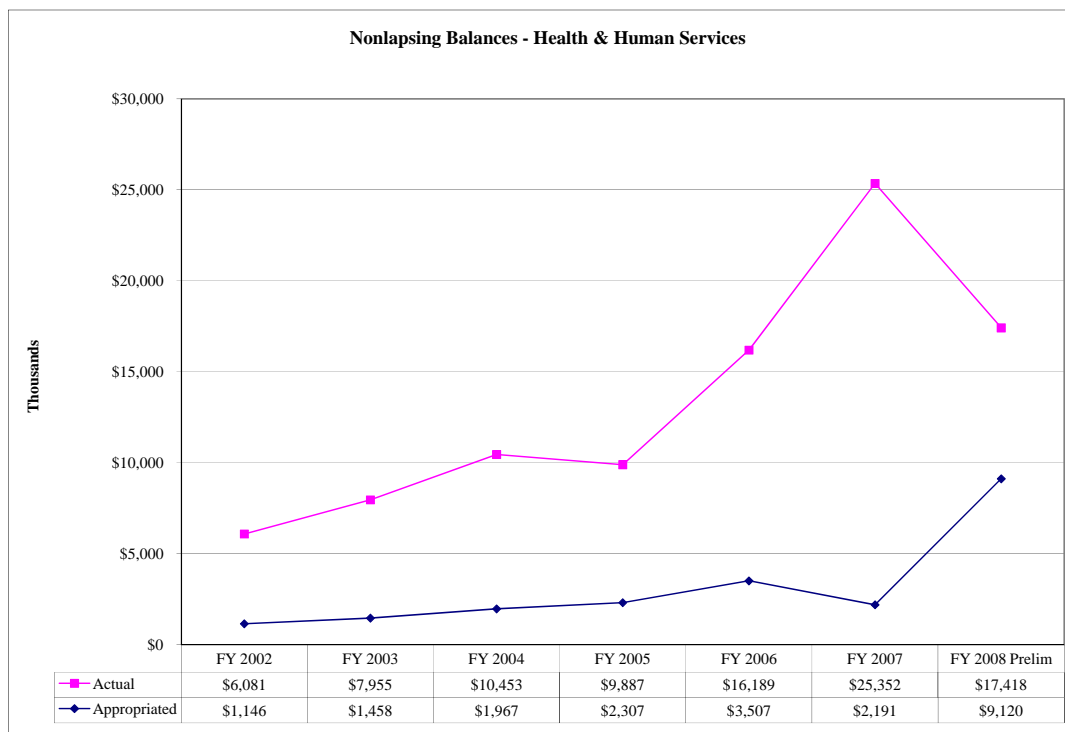


Figure 10

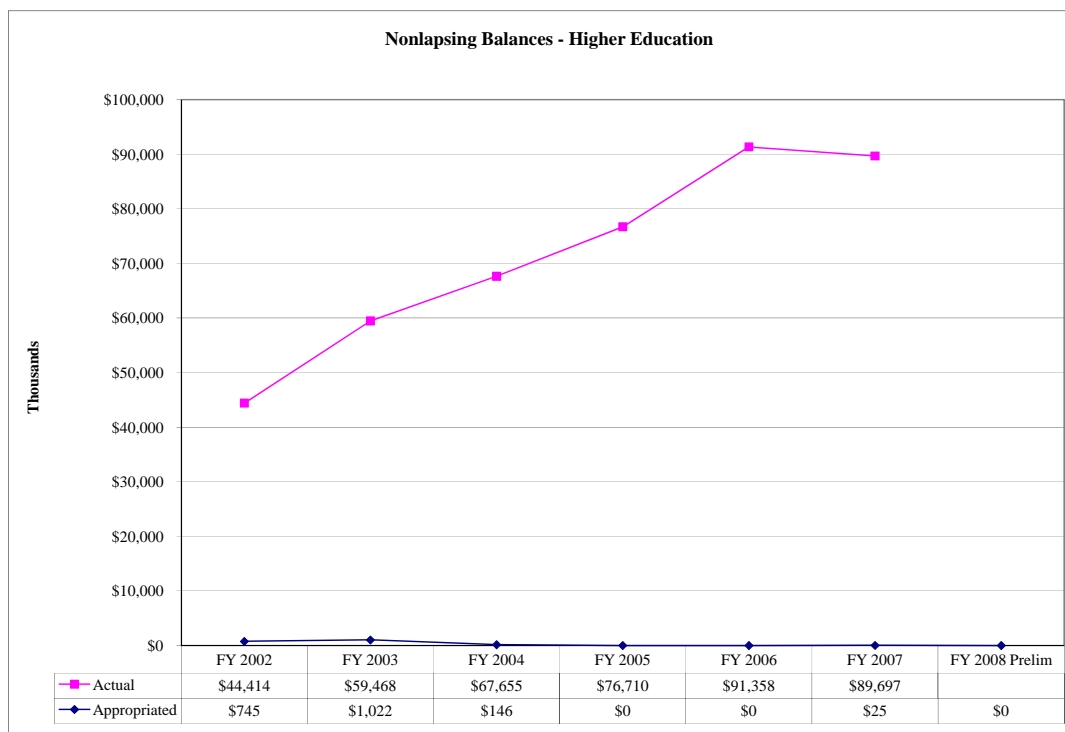


Figure 11

Note to Figure 11 – Higher Education did not submit Actuals to Finance and therefore do not have preliminary nonlapsing balances

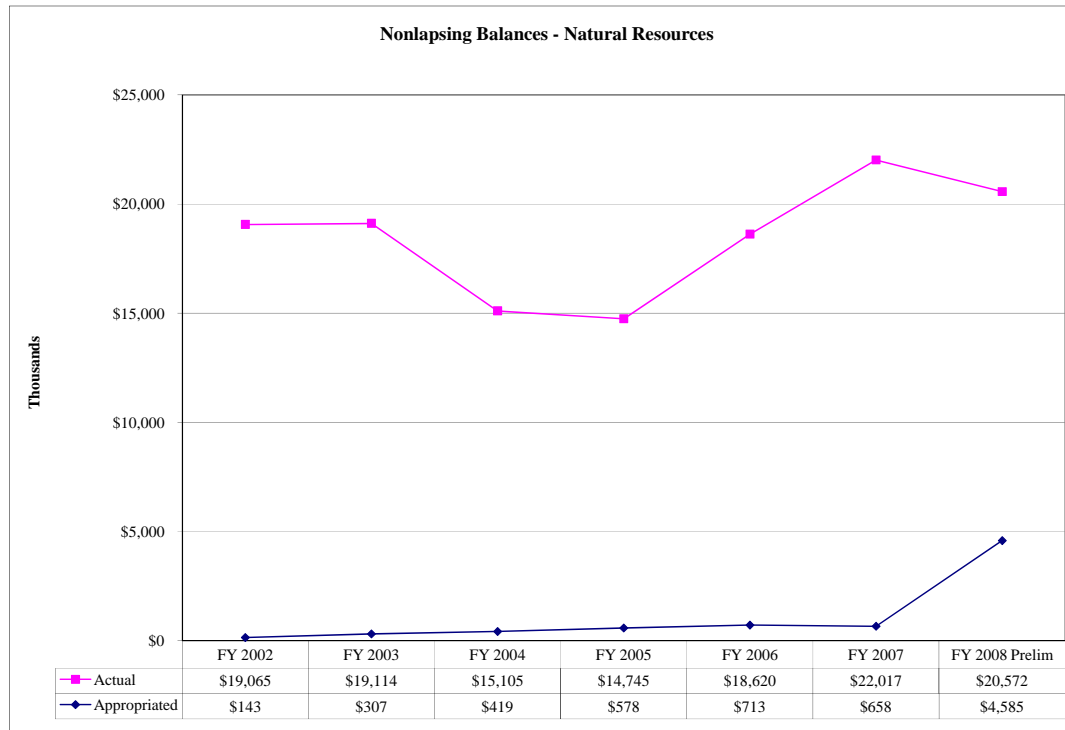


Figure 12

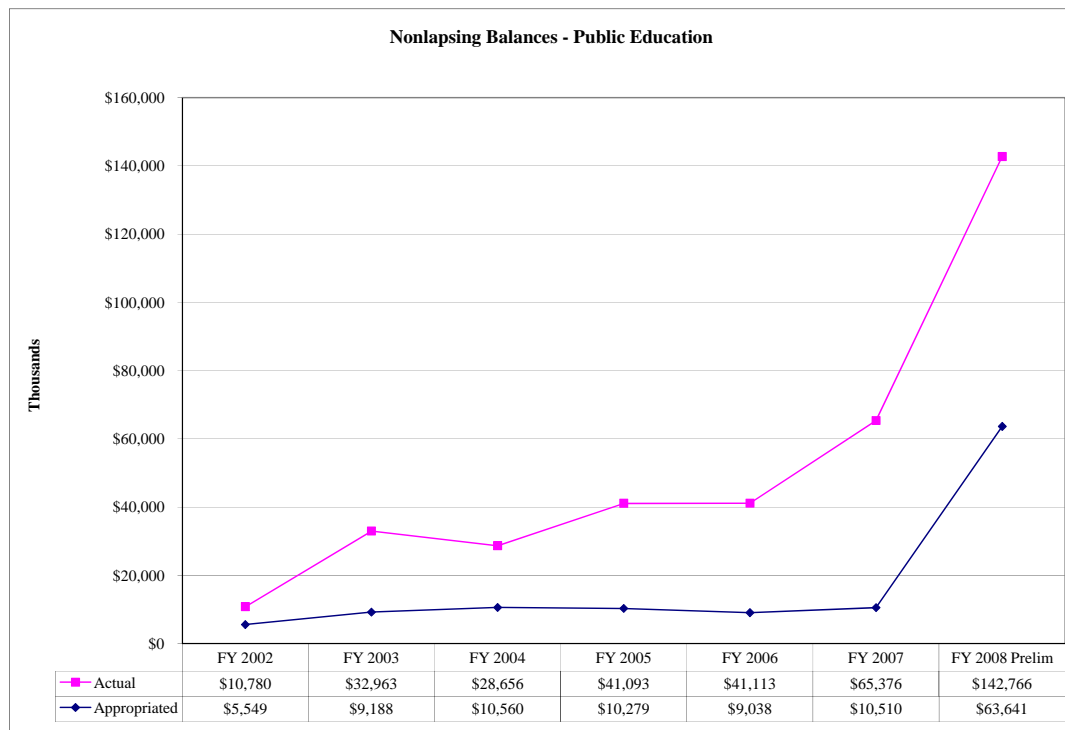


Figure 13

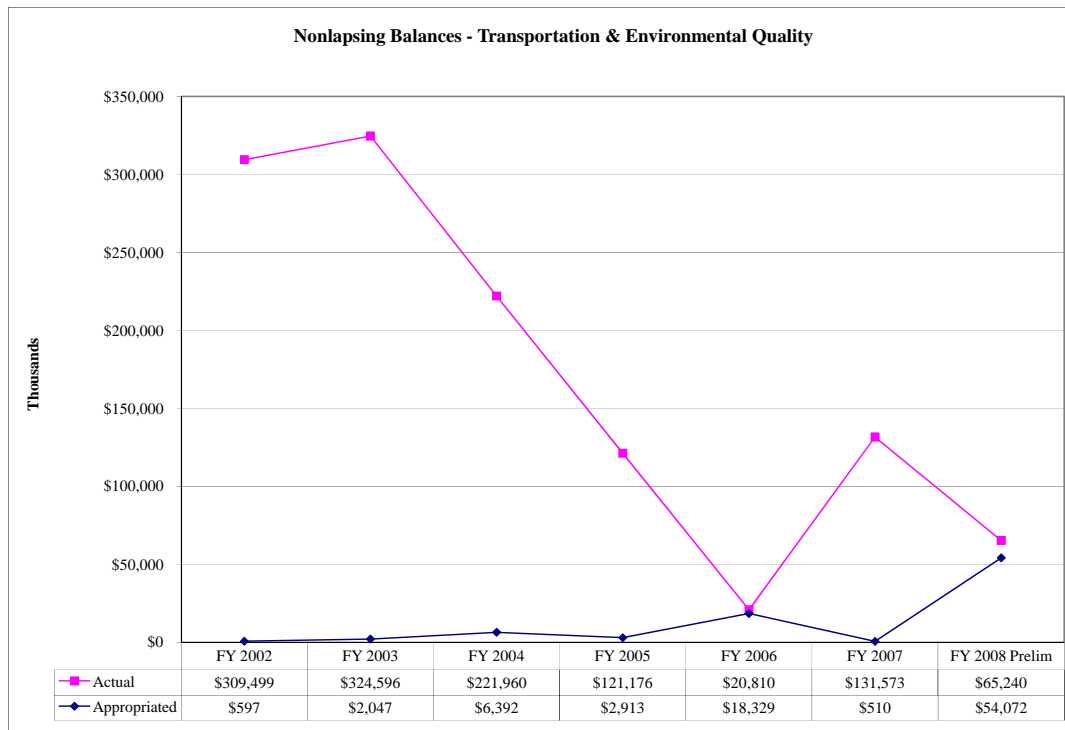


Figure 14

APPENDIX E: NONLAPSING BALANCES BY AGENCY AND PERCENT OF BUDGET

Agency Name	FY 2007 Nonlapsing Balance	FY 2007 Total Budget	FY 2007 Pct of Total	FY 2008 Prel ¹ Nonlapsing Balance	FY 2008 Revised Est Budget	FY 2008 Pct of Total
Administrative Services	(4,901,500)	23,081,300	21.2%	(6,002,800)	52,789,900	11.4%
Agriculture	(3,426,000)	27,327,600	12.5%	(2,608,400)	33,372,400	7.8%
Attorney General	(2,381,300)	43,862,300	5.4%	(3,713,200)	51,045,700	7.3%
Board of Pardons and Parole	(60,600)	3,177,100	1.9%	(151,700)	3,659,100	4.1%
Career Service Review Board	(5,000)	211,800	2.4%	(5,000)	233,200	2.1%
College of Eastern Utah ²	(230,901)	16,540,250	1.4%	N/A	21,424,400	N/A
Commerce	(3,607,700)	21,909,400	16.5%	(3,865,700)	29,457,000	13.1%
Community and Culture	(5,862,100)	105,221,000	5.6%	(3,675,400)	197,177,000	1.9%
Corrections	(8,458,300)	243,653,000	3.5%	(9,990,700)	270,998,200	3.7%
Courts	(1,017,500)	118,393,500	0.9%	(1,684,700)	131,254,000	1.3%
Debt Service	(23,534,200)	235,010,400	10.0%	(19,031,900)	240,979,100	7.9%
Dixie State College ²	(5,930,299)	27,079,251	21.9%	N/A	31,389,800	N/A
Economic Development	(6,193,400)	35,137,700	17.6%	(9,248,200)	41,034,400	22.5%
Environmental Quality	(746,900)	78,811,300	0.9%	(1,347,800)	88,240,800	1.5%
Governor's Office	(3,816,400)	20,707,100	18.4%	(6,175,500)	37,168,600	16.6%
Health	(16,256,100)	1,811,148,600	0.9%	(6,892,800)	1,950,920,500	0.4%
Human Resource Management	(686,300)	3,393,200	20.2%	(512,800)	4,453,600	11.5%
Human Services	(9,095,800)	534,177,600	1.7%	(10,524,700)	593,841,200	1.8%
Insurance ³	(28,084,300)	33,779,600	83.1%	(1,872,400)	38,782,600	4.8%
Juvenile Justice Services	(217,300)	102,262,500	0.2%	(1,247,900)	110,455,500	1.1%
Labor Commission	(565,000)	10,239,200	5.5%	(862,100)	12,622,200	6.8%
Legislature	(4,409,100)	17,542,740	25.1%	(5,084,300)	20,246,500	25.1%
Medical Education Council	(567,400)	770,800	73.6%	(711,500)	1,108,100	64.2%
Minimum School Program	(42,159,800)	2,478,041,925	1.7%	(120,573,900)	2,972,317,800	4.1%
National Guard	(27,200)	31,915,000	0.1%	(5,800)	44,477,300	0.0%
Natural Resources	(18,219,800)	189,351,300	9.6%	(17,272,300)	196,379,800	8.8%
Public Lands Office	(371,600)	2,641,100	14.1%	(690,900)	3,172,700	21.8%
Public Safety	(27,202,000)	139,084,500	19.6%	(32,061,400)	208,613,300	15.4%
Public Service Commission ⁴	(10,338,200)	10,709,600	96.5%	(2,461,900)	11,630,300	21.2%
Salt Lake Community College ²	(7,489,606)	100,332,500	7.5%	N/A	107,379,600	N/A
Snow College ²	(1,034,128)	24,772,759	4.2%	N/A	27,185,000	N/A
Southern Utah University ²	(3,886,787)	47,968,334	8.1%	N/A	52,167,600	N/A
State Auditor	(197,200)	4,533,500	4.3%	(250,600)	5,136,400	4.9%
State Board of Education	(23,864,100)	494,403,000	4.8%	(22,192,200)	501,685,300	4.4%
State Board of Regents ²	(1,138,397)	25,799,435	4.4%	N/A	39,171,000	N/A
State Treasurer	(466,700)	2,325,700	20.1%	(520,000)	3,166,900	16.4%
Tax Commission	(8,991,100)	74,838,600	12.0%	(14,769,000)	92,692,000	15.9%
Technology Services	(2,621,400)	10,511,900	24.9%	(1,221,400)	20,539,700	5.9%
Transportation	(130,685,700)	1,330,372,200	9.8%	63,703,400	1,473,836,700	-4.3%
University of Utah ²	(23,999,000)	370,458,878	6.5%	N/A	397,233,500	N/A
USTAR	(58,328,300)	10,921,700	534.1%	(58,635,900)	39,576,100	148.2%
Utah College of Applied Technology ²	(3,066,939)	61,021,613	5.0%	N/A	65,789,500	N/A
Utah Education Network ²	(3,068,900)	30,248,100	10.1%	N/A	34,603,500	N/A
Utah State University ²	(22,249,674)	210,946,996	10.5%	N/A	231,747,200	N/A
Utah Valley State College ²	(11,056,523)	98,794,210	11.2%	N/A	117,056,800	N/A
Veterans' Affairs	(113,200)	1,067,200	10.6%	(183,200)	1,228,000	14.9%
Weber State University ²	(5,978,889)	107,221,141	5.6%	N/A	110,803,300	N/A
Workforce Services	(2,605,100)	276,536,800	0.9%	(1,940,200)	319,031,100	0.6%

Notes:

1. Numbers are preliminary from the Division of Finance and will not be finalized until audited in November by the State Auditor

2. Institutions of Higher Education do not use FINET. Nonlapsing balances information will not be available until October.

3. FY 2008 nonlapsing balance does not include the Comprehensive Health Insurance Pool which had a balance of \$26 million in FY 2007

4. FY 2008 nonlapsing balance does not include the Universal Telecom Service Fund which had a balance of \$7 million in FY 2007